

September 9, 2011

Mr. Tim Byrnes  
Director of Operations  
Construction Testing Services  
3245 Card Drive  
Burton, Michigan 48529

SUBJECT: NRC INSPECTION REPORT NO. 030-14031/11-01(DNMS) AND NOTICE OF VIOLATION – CONSTRUCTION TESTING SERVICES

Dear Mr. Byrnes:

On July 28, 2011, a U.S. Nuclear Regulatory Commission (NRC) inspector conducted an inspection at your Burton, Michigan facility, with continued in-office review until September 2, 2011. The in-office review was related to an evaluation of personnel dosimetry. A telephone exit meeting between your Radiation Safety Officer (RSO) Jack Geerlings and Andrew Bramnik of my staff was conducted on September 2, 2011, to discuss the inspection findings.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the conditions of your license as well as the Commission's rules and regulations. Within these areas, the inspection consisted of a selected review of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that two Severity Level IV violations of NRC requirements occurred. The violations were evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations involved the failure to: (1) comply with U.S. Department of Transportation (DOT) requirements for recurrent Hazmat training; and (2) monitor authorized personnel using personal dosimetry badges that were processed on a monthly basis. As corrective actions for the required Hazmat training, the RSO committed to have all portable gauge users complete recurrent Hazmat training online before August 12, 2011. To prevent recurrence, employee training certificates will be retained and documented by management. As corrective action for the license condition to monitor authorized personnel using personal dosimetry badges the RSO submitted the badges for reading on August 3, 2011.

The violations are cited in the enclosed Notice of Violation (Notice) because they were identified by the NRC.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective

Action," may be helpful. You can find the information notice on the NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Additionally, the NRC is concerned about the level of management oversight for the radiation safety program at Construction Testing Services. Inadequate management oversight was a contributing factor for both of the violations identified during the inspection. The NRC is also concerned that your staff did not inform the inspector about the failure to monitor authorized personnel using personal dosimetry badges during the on-site inspection. Therefore, in addition to responding to the violations identified in the enclosed Notice, please also include in your written response a discussion of how you will address management oversight to prevent recurrence of these or similar issues in the future.

In accordance with Title 10 of the Code of Federal Regulations (CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

We will gladly discuss any questions you have concerning this inspection.

Sincerely,

**/RA/**

Tamara E. Bloomer, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety

Docket No. 030-14031  
License No. 21-18680-01

Enclosure:  
Notice of Violation

cc w/ encl: Jack F. Geerlings, P.E., RSO  
State of Michigan

T. Byrnes

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We will gladly discuss any questions you have concerning this inspection.

Sincerely,

/RA/

Tamara E. Bloomer, Chief  
Materials Inspection Branch  
Division of Nuclear Materials Safety

Docket No. 030-14031  
License No. 21-18680-01

Enclosure:  
Notice of Violation

cc w/ encl: Jack F. Geerlings, P.E., RSO  
State of Michigan

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## NOTICE OF VIOLATION

Construction Testing Services  
Burton, Michigan

Docket No. 030-14031  
License No. 21-18680-01

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 28, 2011, with continued NRC in-office review through September 2, 2011, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the Code of Federal Regulations (CFR) 71.5(a) requires that a licensee who transports licensed material outside of the site of usage, as specified in the NRC license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 107, 171-180, and 390-397.

Title 49 CFR 172.702 requires that each hazmat employer ensure that each hazmat employee is trained and tested, and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained in accordance with Subpart H of 49 CFR Part 172. The terms Hazmat Employer and Hazmat Employee are defined in 49 CFR 171.8.

Title 49 CFR 172.704(a) specifies the elements of hazmat employee training as: (1) general awareness/familiarization training; (2) function-specific training; and (3) safety training. Title 49 CFR 172.704(c) requires, in part, that a hazmat employee receive initial training, and recurrent training at least once every three years.

Contrary to the above, between 2008 and July 28, 2011, the licensee did not provide training for its hazmat employees that satisfied the requirements in Subpart H to 49 CFR Part 172, in that the licensee's portable gauge users had not completed recurrent training at least once every three years, and the licensee otherwise meets the definition of a hazmat employer in 49 CFR 171.8. Specifically, the licensee's gauge users had not completed recurrent training since their initial training that was conducted between 2003 and 2008.

This is a Severity Level IV Violation (Section 6.3)

- B. Condition 24 of NRC License No. 21-18680-01 states, in part, that the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the Application dated January 20, 2006.

Item 10 of the Application dated January 20, 2006 states, in part, that "All authorized personnel are monitored using personal dosimetry badges that are monitored by Landauer on a monthly basis. All information obtained concerning the dosimetry badges become a part of our audit and are also provided to the authorized users."

Enclosure

Contrary to the above, between November 2008 and June 2011, the licensee failed to monitor authorized personnel using personal dosimetry badges that were monitored by Landauer on a monthly basis. Specifically, the licensee failed to return monthly personal dosimetry badges that had been worn by authorized personnel between November 2008 and June 2011, for monitoring until August 3, 2011.

This is a Severity Level IV violation (Section 6.3)

Pursuant to the provisions of 10 CFR 2.201, Construction Testing Services is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, your response should not include any personal privacy, proprietary or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this     day of September 2011.

Enclosure